

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Plaintiff,

v.

CIVIL ACTION NO. 2:06-cv-00703

LAKE P. WARD, JR.

Defendant.

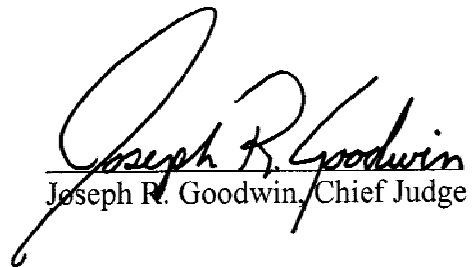
MEMORANDUM OPINION AND ORDER

Pending before the court is the Motion to Show Good Cause filed by the plaintiff [Docket 35], filed in response to the court's request that the plaintiff demonstrate good cause for not serving the defendant Lake P. Ward with process within 120 days of filing suit. In the motion, the plaintiff acknowledges that it has not served the defendant. It states that it failed to serve Mr. Ward because of representations made by his counsel that indicated that Mr. Ward did not seek coverage under the policy he maintained with the plaintiff.

Because the plaintiff has failed to show service within 120 days, waiver of service, or good cause for failure to serve, the case is **DISMISSED** without prejudice pursuant to Fed. R. Civ. P. 4(m). The court's January 24, 2007, Memorandum Opinion and Order granting the Estate of Benita Dixon's Motion to Intervene is **VACATED** as improvidently granted.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: April 11, 2008



Joseph R. Goodwin
Joseph R. Goodwin, Chief Judge